



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL
LITIGATION BUREAU

January 13, 2023

Via ECF

Hon. Nelson Stephen Román
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601-4150

Re: **Boyd v. Guthrie, et al., 22 Cv. 8549 (NSR)**

Dear Judge Roman:

Defendants Correction Officer Charles Guthrie, Correction Officer Asantewa K. Tulloch, Correction Sergeant Jose Candelario, Nurse Elizabeth Pennisi,¹ Senior Offender Rehabilitation Coordinator Marcia N. Regisford, Superintendent Michael Capra, Deputy Superintendent Elaine Velez, Correction Officer Vito G. Marsico, Correction Officer Rondy D. London, Correction Sergeant Gabriel A. Martinez,² Correction Sergeant Julio C. Gonzalez,³ Correction Officer Leon K. Lowe, Correction Officer Santiago Vasquez Felix,⁴ Correction Officer Gonzalez and Correction Officer Alexander were served with the summons and Complaint in the above-referenced action on December 28, 2022. *See Dkt. Nos. 10-24*. Their responses are due on January 18, 2023. *Id.* I write, on behalf of all Defendants, to respectfully request that their time to move or answer with respect to the Complaint, be extended to March 18, 2023. This is the Defendants' first request for an extension.

The foregoing Defendants, except Correction Officers Gonzalez and Alexander, have requested legal representation from this Office, pursuant to New York State Public Officers Law § 17. However, pursuant to that statute, prior to undertaking their representation, this Office must conduct an investigation and review of the facts and circumstances of the case in order to determine whether representation by this Office would be appropriate. Due to the allegations in this action, these representational determinations under § 17 require a separate evaluation of all facts and circumstances relevant to each requesting defendant. Although Defendants Gonzalez and Alexander have not yet requested representation from this Office, this request is also being

¹ Sued herein as "Elizabeth Pemisi."

² Sued herein as "Sergeant Martinez."

³ Sued herein as "Sergeant Gonzalez."

⁴ Sued herein as "Felix Santiago Vasquez."

MEMO ENDORSED

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submitted on their behalf pursuant to POL § 17(2)(c), which requires this Office to protect State Defendants against entry of default pending completion of a representational analysis.

As such, the additional time requested is needed so that this Office can obtain the relevant documents and conduct the required factual investigation and representational analysis required by Public Officers Law § 17. Second, the extension will also allow for defendants Gonzalez and Alexander to request representation from this Office and for this Office to complete its mandatory representational analysis with respect to this Office's potential representation of them. Finally, the additional time is needed to prepare an appropriate response to the Complaint, if representation is undertaken.

Plaintiff's consent has not been sought because of the difficulty in prompt communication with incarcerated pro se litigants. Thank you for your consideration of the application.

Respectfully submitted,

/s/ Wesley E. Bauman
Wesley E. Bauman
Assistant Attorney General


Cc: Nyjee Boyd (by mail)
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Pro Se

Defendants' request for an extension is GRANTED, in light of Public Officers Law Section 17 and to allow for Defendants to request representation. Defendants are granted leave to move or answer with respect to the Complaint on or before March 18, 2023.

The Clerk of the Court is kindly directed to terminate the motion at ECF No. 25.

Dated: January 16, 2023
White Plains, NY

SO ORDERED:



HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE